

Bias-Motivated Offensive Conduct Policy 2020-21

1.0. PHILOSOPHY OF ONE PROCESS

1.1. Introduction

Dominican University is committed to ensuring a just and humane campus where all community members have the capacity to thrive. The Office of Diversity, Equity and Inclusion (ODEI) works in partnership with community stakeholders to support the culture of equity and inclusion that is critical to the University's mission and identity. When the behavior of some community members challenge the well-being of others, the ODEI determines, to the extent possible, whether the University's policies related to Title IX and gender-based misconduct, ADA and disability, race discrimination, bias, and other forms of sexual harassing conduct were violated. In addition, the ODEI ensures university compliance with federal, state, and local laws covering discrimination and gender-based misconduct. The Chief Diversity Officer administers the Office of Diversity, Equity and Inclusion.

To ensure the university's ability to foster a just and humane campus for all, violations of these policies will not be tolerated. As such, the university community is asked to report incidents that may violate university anti-discrimination and sexual misconduct policies so that efforts can be made to end discriminatory and harassing conduct based on protected characteristics, prevent its reoccurrence, and, where possible, address its effects. The University takes these reports seriously and is therefore committed to following up on reports of sexual assault, sexual harassment, and discrimination.

1.2. Investigations of Bias-Related Policy Violations are based on a Civil Rights Model

Dominican University has chosen to utilize a model based on procedures for investigating alleged violations of civil rights. Civil Rights violations are highly sensitive and emotional, and require sound and thorough investigations to properly and effectively address them. Any investigation of civil rights violations must be responsive to specific contexts and individual circumstances and must maintain rigorous standards. A civil rights model is based on an active gathering of information by trained investigators. Investigations are designed to be fair, impartial, thorough, and timely. In the civil rights investigation model, it is not the job of the parties to prove whether a policy was violated. It is the job of Dominican University to determine whether there is a preponderance of evidence that a University policy was violated.

Investigations involve an active accumulation of information from all relevant sources. Investigators must objectively and impartially collect the pertinent information, confirm its veracity, and analyze the information to understand violations, their causes and effects, and, when necessary, to take corrective action. The duration and scope of investigations can vary, as well as the content of final investigative reports. However, all findings determine the extent to which the parties involved are responsible for violating university policy. Findings may include recommendations on ways to rectify violations for complainants, promote accountability for

respondents found to have violated University policy, stop ongoing abuses, and prevent their reoccurrence. Findings may also include recommendations to the university to address issues found to have contributed to a policy violation.

The standard used to determine whether the Bias-Motivated Offensive Conduct Policy has been violated is whether it is more likely than not that the respondent violated the policy. This evidentiary standard is often referred to as a preponderance of the evidence.

The complaint resolution process is outlined below.

1.3. Overview of the Investigation Process

There are stages to the process: Receipt of Incident Reports, Intake, and determination of Interim measures, including an option for mediation or other options for alternative dispute resolution of the complainant (ADR). When appropriate, a notice of a One Process Concern is issued in lieu of a full investigation or alternatively, a Notice of Investigation is issued when a full investigation is warranted. (Stage 1), In cases where a full investigation occurs, Deputy Coordinators manage the case and investigators complete the investigative report, the One Process /Title IX Coordinator issues letters of findings to relevant parties (Stage 2). Once findings have been issued, the complainant may request an appeal. A Review of a request for appeal is completed by the One Process/Title IX Coordinator. If approved, the One Process/Title IX Coordinator convenes a Review Board (Stage 3). If unresolved by the Review Board, an appeal may result in approval of the Right to Further Review (Stage 4). In any full investigation, the complainant's and respondent's rights in the investigation and resolution process are provided to each party in writing (see Appendix A for a statement of rights).

In general, the investigation and initial resolution of any alleged violation of University Bias-Motivated Offensive Conduct Policy (Stages 1 and 2) will be completed as soon as possible after a Notice of Investigation is issued.

1.4. Community Based Process

Members of the Dominican University community (faculty/staff/student) are trained to implement this process for a just and humane campus and to offer support. Confidential Resources, Mediators, Investigators, and Investigation Advocates may be faculty and staff members of the community trained by the One Process/Title IX Coordinator or the Committee on Climate, Equity, and Inclusion. Each of the One Process roles is specialized and members of the Dominican University community should serve in only one capacity during an academic year. The roles of One Process stakeholders are defined below:

Confidential Resources (CRs): A Confidential Resource is a member of the Dominican University community who is trained to offer resources and support, explain how the Dominican's grievance and disciplinary system works, and help navigate the reporting process. Confidential Resources may talk to a victim/survivor but is required to report the details of an incident to the Title IX Coordinator without initially including the reporter's identifying information. In the interest of public safety, the Title IX Coordinator may ask a Confidential Resources to provide additional information regarding a reporting party.

Mediators: Mediation is a resolution process by which both parties agree to meet with an impartial trained mediator. Impartial and trained mediators from the Dominican University

community (faculty/staff/student) develop a resolution process to discuss the incident and attempt to resolve it amicably.

Investigators: Trained investigators from the Dominican University community (faculty/staff/student) will interview the complainant, respondent, any witnesses, and any other relevant persons and determine the appropriate order for the interviews. Investigators are trained members of the community including faculty, staff, and external investigators who are appointed and trained by the Chief Diversity Officer. To the extent possible, one investigator will be the note taker and one will be the interviewer. The university, at its discretion, can contract with external investigators to ensure timely and impartial completion of investigations. It is the responsibility of the investigators to determine the facts of the situation under investigation.

Investigation Advocates: A trained investigation advocate from the Dominican University community (faculty/staff/student) can be present for the investigation and/or resolution process. Investigation advocates are trained in investigation protocols. They may advise the complainant or respondent on the proceedings and communicate expectations about the process of investigation.

Other Advisors: Each party has the right to choose and consult with an advisor; the advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. While advisors may provide support at any meeting or proceeding, they may not speak on behalf of the parties or otherwise participate in or in any manner disrupt such meetings and proceedings. Investigators may terminate interviews when advisors violate these terms and conditions for participation in the interviews or proceedings.

Confidential Advisors: A Confidential Advisor is a person who has received 40 hours of training and 6 hours of training updates each year. The Confidential Advisor is trained in sexual assault counseling and may have privileged communications with students related to sexual assault. Confidential Advisors are exempt from full disclosure.

Responsible employees: Responsible employees are university employees who have the authority to redress sexual violence or who otherwise have the duty to report such incidents. All university employees and contracted staff are **responsible employees** except licensed mental health professionals, and confidential advisors. The following groups of student employees are designated as responsible employees: Social Justice Advocates, Resource Desk Assistants, Resident Advisors, Student Security, Welcome Desk Workers, Circulation Desk Attendants, Peer Advisors, and University Ministry student staff. A report to a responsible employee constitutes a report to the University and generally obligates Dominican University to document the incident and take appropriate steps to address the situation.

Mandatory Reporters: All University employees, contracted staff, designated student employees, and Trustees are required to report concerning behaviors, including threats or crimes by employees. In addition, state law requires the reporting of suspected cases of child abuse and neglect. When an employee or trustee becomes aware of an alleged employee crime, child abuse or neglect, the employee must promptly contact Security or Campus Safety. In cases of child abuse or neglect, the employee must contact the Title IX Coordinator and the Department of Children and Family Services hotline. If child abuse or neglect is suspected or disclosed, the reporter should not delay a call to the hotline, even if all the information about the victim or the

incident is not readily available. The Illinois Child Abuse Hotline is 1-800-25-ABUSE or 1-800-252-2873.

When reporting abuse or neglect, reporters should be prepared to provide a phone number where they can be reached in case the Hotline needs to contact the reporter for additional information.

1.5. Confidentiality

No identifying information will be reported to the community (i.e., name, relationship to the University, and details about the incident) unless the University determines that disclosure of such information is legally required or necessary to address a threat to the campus community.

The University will maintain documentation of all hearings or other proceedings, which can take various forms (e.g., notes, written findings of fact, transcripts, or audio recordings, etc.). To the extent permitted by law, the confidentiality of all parties involved in the resolution of alleged or suspected violations of University policy will be observed, provided that it does not interfere with the University's ability to conduct an investigation and take any corrective action deemed appropriate by the University.

In no event will the complainant be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome.

1.6. Prohibition against Retaliation

Dominican University strictly prohibits any adverse action against any individual for reporting, providing information, or exercising one's rights under non-discrimination or sexual misconduct policies. No individual who makes a complaint alleging a violation of these policies or who participates in the investigation or resolution of such a complaint shall be subject to retaliation as a result of such activity or participation. Retaliation exists when action is taken against a complainant or participant in the complaint process that (1) adversely affects the individual's employment or their opportunity to access or benefit from the University's programs or activities; and (2) is motivated in whole or in part by the individual's participation in the complaint process. Any acts of retaliation, as defined here, shall be grounds for disciplinary action, up to and including dismissal for students and termination of employment for faculty and staff.

1.7. Free Expression and Academic Freedom

Dominican University is firmly committed to free expression and academic freedom. We are also committed to creating and maintaining a safe, healthy, and harassment free environment for all members of our community. These are both legitimate interests but discrimination, intimidation, harassment, and retaliation against members of the community are not protected expression. The University will investigate any alleged retaliation that involves individual statements, expression or speech.

1.8. Immunity

To encourage reporting, the University pursues a policy of offering witnesses and individuals who wish to report incidents limited immunity from being charged for policy violations. While violations cannot be completely overlooked, the University will provide educational rather than punitive responses in such cases. The seriousness of discrimination and/or sexual misconduct is a

major concern and the university does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of discrimination and/or sexual misconduct.

1.9. Clery Act/Federal Statistical Reporting Obligations

All information will be considered confidential to the greatest extent possible. For federal reporting purposes, all personally identifiable information will be kept confidential, but statistical information must be reported to the relevant authorities. Such reporting protects the identity of the complainant and the respondent.

1.10. Other Grievances

The university community benefits from formal and informal procedures that encourage prompt resolution of complaints and concerns regarding the implementation of policies and procedures that govern the institution. All grievances not involving discrimination and/or gender-based misconduct will be addressed through academic procedures in the Faculty Handbook, employee policies in the Employee Handbook or student conduct procedures in the Student Code of Conduct. These procedures are governed by the Faculty Senate, Human Resources, and the Dean of Students.

2.0. REPORTING OPTIONS AND LEVELS OF CONFIDENTIALITY

2.1. Who must Report and What Information Must they disclose?

Dominican's One Process policy makes students, faculty, and staff aware of the various reporting and confidential disclosure options available to them – so they can make informed choices. Dominican University encourages anyone who experiences any kind of misconduct or discrimination to talk to someone identified in one or more of these groups but to be aware that different employees on campus have different abilities to maintain a complainant's confidentiality.

Licensed mental health professionals and employees functioning within the scope of their employment and who are supervised by university employees with a professional license cannot disclose confidential information. These employees can maintain near complete confidentiality regarding sexual assault; talking to them is sometimes called a "privileged communication."

Confidential Advisors may or may not be a licensed mental health professional but they must have 40 hours of training and 6 hours of updates each year in sexual assault counseling. Confidential Advisors may have confidential communications with students related to sexual assault. They can also help the complainant access other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.

Confidential Resources may talk to a complainant in confidence, but are also required to fill out an anonymous university report that initially keeps identities private. Disclosures to these employees will not trigger a university investigation against the complainant's wishes. Any member of the Dominican community can talk to a Confidential Resource. For Students Only: Non-counseling and non-medical staff in the Wellness Center can also talk to a complainant in confidence.

All other Dominican employees – including faculty, staff, contracted employees, and designated student employees; i.e. Social Justice Advocates, Circulation Desk Attendants, Peer

Advisors, Resource Desk Assistants, Resident Advisors, Student Security, Welcome Desk Workers, and University Ministry student staff are required to report all the details of an incident (including the identities of both the complainant and respondent) to the One Process/Title IX Coordinator.

2.2. Confidentiality Requests

Complainants have the right to request confidentiality. When deciding how they want to proceed, complainants must weigh the fact that maintaining confidentiality can impact the university's ability to adequately investigate a particular incident or to pursue appropriate action against the respondent.

A complainant who at first requests confidentiality may later decide to file a complaint with the university or report the incident to local law enforcement, and thus have the incident fully investigated. The One Process/Title IX Coordinator will provide the complainant with assistance if the complainant decides to file a complaint.

2.2.1. Requesting Confidentiality from the University

If a complainant discloses an incident to an employee but wishes to maintain confidentiality or requests that no investigation be conducted or disciplinary action taken, Dominican University must weigh that request against the university's obligation to provide a safe, non-discriminatory environment for all.

If Dominican University honors the request for confidentiality, a complainant must understand that the university's ability to meaningfully investigate the incident and pursue disciplinary action against the respondent(s) may be limited.

Dominican University has designated the One Process/Title IX Coordinator to evaluate requests for confidentiality. When weighing a complainant's request for confidentiality or request that no investigation or discipline be pursued, the One Process/Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the respondent will commit additional acts of sexual or other violence, such as:
- whether there have been other sexual violence complaints about the same respondent;
- whether the respondent has a history of arrests or records from a prior school indicating a history of violence;
- whether the respondent threatened further sexual violence or other violence against the victim or others;
- whether the sexual violence was committed by multiple respondents;
- whether violence was perpetrated with a weapon;
- whether the complainant is a minor;
- whether the university possesses other means to obtain relevant evidence of the violence (e.g., security cameras or personnel, physical evidence);
- whether the complainant's report reveals a pattern of inappropriate conduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the university will likely respect the complainant's request for confidentiality.

If the University determines that it cannot maintain a complainant's confidentiality, the University will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response.

Dominican University will remain mindful of the complainant's well-being, and will take ongoing steps to protect the complainant from retaliation or harm and work with the complainant to create a safety plan.

Dominican University will also:

- assist the complainant in accessing other available advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the respondent pending the outcome of an investigation) or adjustments for assignments or tests;
- inform the complainant of the right to report a crime to campus or local law enforcement (or not to do so) – and provide the complainant with assistance if the complainant wishes to do so.

2.3. Community Alerts

If the University determines that the alleged respondents(s) pose a serious and immediate threat to the university community, the One Process/Title IX Coordinator, Dean of Students, or Campus Safety and Security may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the complainant to the extent permitted by the law. Dominican University may have other reporting obligations under state, federal or local laws. Complainants will be notified whenever these reporting obligations apply to the complaint.

2.4. Maintaining a Healthy, Safe Campus

How do I report an incident?

Reporting an incident can be done in three ways: (1) by contacting Matt Hlinak, One Process/Title IX Coordinator, Mazzuchelli North 358, (773) 612-5797, mhlinak@dom.edu or; (2) by contacting Confidential Resource persons, or any representative of the campus (e.g., the Dean of Students Office, Campus Safety and Security, Residence Life, Human Resources, the Provost's Office, University Ministry, a faculty member or a staff member) or [reporting on line](#) through the incident management system.

A complainant may choose to make a report to the University and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time.

Can I report anonymously?

To help ensure a prompt and thorough investigation, complainants are encouraged to provide as much information as possible when they report an incident, such as:

2.5. Confidentiality within the Roman Catholic Sacrament of Reconciliation and Penance

As a Catholic, Dominican institution, Dominican University believes that the dignity of the human person and her or his restoration of right relationship with God and others is central to the profession and practice of any faith. In Roman Catholicism, the Sacrament of Reconciliation or Penance is a moment of sacred grace through healing. For Roman Catholic faculty, staff and students Reconciliation is made available by request or through general pastoral offerings of the University Ministry Center. For baptized Roman Catholics, the information shared within the confessional space of the Sacrament are completely confidential and remain under what the Church calls the sacramental seal. The seal prevents the confessor from sharing any information because it is “sacred, and cannot be violated under any pretext” (Catechism of the Catholic Church 2490). As such, a Roman Catholic priest in good standing serving as a confessor on Dominican University’s campus shall not be required to report any information disclosed in the confessional space. Pastoral counselors when functioning within the scope of their university employment are exempt from the reporting requirements as a responsible employee.

2.6. Reporting to “Responsible Employees.”

All Dominican University employees, including faculty and designated student employees - including, Diversity Advocates, Circulation Desk Attendants, Peer Advisors, Resource Desk Assistants, Resident Advisors, Student Security, Welcome Desk Workers, and University Ministry student staff are considered “responsible employees” and must formally report the incident. Including the details of the incident and the names of the complainant or the person who discloses the incident.

When a complainant tells a Dominican employee about an incident of misconduct, the complainant has the right to expect the university to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

Dominican University employees must report to the One Process/Title IX Coordinator all relevant details about the alleged incident shared by the complainant and the university will need to determine what happened – including the names of the complainant and respondent(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a Dominican University employee will be shared only with people responsible for handling the university’s response to the report. Dominican University employees should not share information with law enforcement without the complainant’s consent, unless the complainant has also reported the incident to law enforcement.

Before a complainant reveals any information to a Dominican University employee, the employee should ensure that the complainant understands the employee’s reporting obligations – and, if the complainant wants to maintain confidentiality, direct the complainant to the Confidential Advisor.

If the complainant wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the complainant that the university will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the One Process/Title IX Coordinator, the employee will inform the Coordinator of the complainant's request for confidentiality.

Dominican University employees will honor and support the complainant's wishes, to the extent possible. Dominican University employees will not pressure a complainant to make a full report if the complainant is not ready to do so.

3.0. STAGES OF THE ONE PROCESS COMPLAINT RESOLUTION

What follows are the procedures that are intended to comply with federal, state, and local laws, and to be deeply grounded in Dominican's identity and culture of commitment to social justice and the common good. The University's intention, at every stage of the process, is to effectively investigate and resolve violations of University policy while also providing support and affirming the rights and humanity of complainants and respondents.

3.0.1. Stage 1: Receipt of Incident Reports, In-Take, Engagement in Interim Remedial Actions, Determinations Regarding Mediation or Alternative Dispute Resolution

The One Process/Title IX Coordinator will receive incident reports, conduct an intake process, as appropriate, consult with the Dean of Students and the Department of Campus Safety and Security in cases where conduct violations or threats to individual or campus safety are concerned, consult with the ADA Coordinator, when appropriate, and assign designated Deputy Coordinator(s). The One Process/Title IX Coordinator will also appoint investigators. The Deputy Coordinator(s) will be appointed on a rotating basis by the One Process/Title IX Coordinator.

Parties to the complaint have the right to request interim measures pending the disposition of the complaint. The University also reserves the right to take interim measures the University deems appropriate to protect the complainant, the respondent and other members of the community that may be adversely affected. Such interim measures may include but are not limited to removing a student or employee from campus; modifying course or work schedules; changing housing assignments; issuing "no contact" or "appropriate contact" orders, providing referrals for medical, mental health, rape crisis or academic support services; and notifying area law enforcement, when requested. Any such interim steps will be taken in a manner that minimizes the burden on the complainant and respondent to the extent possible.

Campus Safety and Security, Residence Life, the One Process/Title IX Coordinator and designated Deputy Coordinator(s) will provide the complainant and respondent with a list of campus and community resources.

The One Process/Title IX Coordinator, the Intake Panel and/or Deputy Coordinator(s) will gather information to understand the circumstances of the incident and assess whether resolution is only possible through a full investigation or whether mediation or other alternative dispute resolution options may be offered to resolve the dispute. If mediation or an alternative way of resolving the complaint is an option and if both the complainant and respondent agree to mediation or to an

alternative dispute resolution process, or if the respondent agrees to a settlement; these approaches will be initiated in lieu of a full investigation, if an investigation is underway and the parties agree to mediation, the investigation can be halted or suspended pending the outcome of the mediation. Alternative methods of resolution include combinations of interventions that may involve professional development, educational programming, workplace modifications, a settlement agreement or restorative justice measures; such as, peace or racial healing circles, or actions by the respondent that are tailored to achieve the goals of the policy and the needs of the parties to the dispute.

3.0.2. Intake Panel

The University will act on all reports of alleged discrimination and harassment. Complaints will be investigated unless the intake process determines that the following conditions apply: 1) alleged conduct is not a violation under One Process, 2) another adjudicatory process has jurisdiction over the alleged conduct, 3) the case could be resolved through mediation, 3) there is not enough information to proceed with the case, 4) there are extenuating circumstances that might affect the need for a full investigation of the case. In the case of an anonymous report, if the allegations may violate community standards or institutional norms, or affect the campus climate or safety of the community, the University may act as the complainant in the case.

- The Intake Panel consists of a Deputy Coordinator and a mediator or Investigation Advocate. The Panel will be designated from the individuals serving through the One Process system and appointed by the One Process/Title IX Coordinator to a renewable term not to exceed 3 years.
- The Intake Panel: 1) determines whether the complaint is a One Process concern (jurisdiction), and whether it should proceed to investigation or be resolved informally; meaning without a formal investigation. Efforts to resolve the complaint may include: **mediation, referral to another adjudicatory process, a notice of One Process Concern or alternative dispute resolution.**
- The intake panel will determine whether there is enough information to proceed to investigation, in cases where more information is needed, the complainant will be asked to provide the information within 14 days of the original complaint. The panel may request an *initial threat assessment* to assess the threat and determine if interim measures or other support needs to be provided or if referrals need to be made based on concerns about harm to self or others.
- If a report is anonymous, the Intake Panel may recommend no immediate action but advise the One Process/Title IX Coordinator to monitor the complaint. If monitoring results in a pattern of discrimination or bias, the One Process/Title IX Coordinator can initiate an investigation of the conduct.
- In third party reports, the intake panel must attempt to contact the individual on whose behalf the complaint is filed to ensure that the named individual subject to the conduct wishes to pursue allegations raised on his/her behalf. If the person subject to the conduct does not wish to pursue allegations, the file will be noted, the allegation will be shared with the respondent, and the case closed.

3.0.3. Mediation and Alternative Resolution

Mediation is a resolution process by which both parties agree to meet with an impartial trained mediator to discuss the incident and attempt to resolve it amicably. In mediation, the complainant and the respondent will not be required to deal directly with one another without the University's involvement.

Mediation is not appropriate for allegations of domestic and dating violence, stalking, and allegations of non-consensual sexual penetration or other kinds of sexual violence. Mediation is successful when the parties have reached a consensus about the details of the incident and how it will be resolved. Mediation is about restoration and reconciliation of relationships. Any party may request that mediation be terminated at any time, in which case an Investigation would commence or proceed. In addition, any party can request an Investigation if he or she is dissatisfied with the mediation resolution.

If appropriate, restorative justice practices can be used to solve problems in ways that allow complainants to reconcile the complaint, respondents to take responsibility for their actions and the community to practice healing and support for both parties to the dispute. A Settlement agreement allows for the resolution of a complaint that does not involve issuing a letter of finding. Settlement agreements are negotiated in lieu of a complete investigation. Settlement agreements may be offered at any stage of the process prior to the issuance of a formal letter of finding. The Settlement option is offered to the respondent with the terms of the settlement governed by the facts of the case. If the respondent agrees to a settlement, the complainant will be offered three working days to review the agreement and consider its terms. If the complainant agrees to the terms of the settlement, the investigation is halted; if the respondent fails to comply with the settlement agreement; an investigation of the initial complaint will commence or continue.

The University reserves the right to investigate any case it deems appropriate. However, other alleged violations of University policy, including some allegations of sexual misconduct, may be resolved using mediation; if all parties agree to participate. In its discretion, the university may not commence an investigation, if it determines that its ability to determine violations of university policy is hampered by requests for confidentiality, or if the reporter chooses to remain anonymous or if one or more parties involved in the case are not students of the university.

3.1. Stage Two: Investigation

The One Process/Title IX Coordinator, in cooperation with the assigned Deputy Coordinator(s), will assign trained investigators to conduct the investigation.

Investigators will be selected from a pool of faculty, staff, and external investigators who have been trained to serve in this capacity. The One Process/Title IX Coordinator and Deputy Coordinator(s) will also determine a preliminary timeline for the investigation. In the investigation process, it is the role of the Deputy Coordinator to keep the parties to the investigation and the One Process/Title IX Coordinator updated on the investigation process.

The investigators will interview the complainant, respondent, any witnesses, and any other relevant persons and determine the appropriate order for the interviews. Interviews may be recorded with the consent of the interviewee. The investigators may also review any relevant records; including documents, electronic texts, social media, and other information relevant to understanding the facts of the case.

Although, in campus investigations, legal terms like “guilt, “innocence” and “burdens of proof” are not applicable, the University never assumes a respondent is in violation of university policy. The investigation and subsequent hearings on appeal are conducted to consider the totality of all evidence available, from all relevant sources.

It is the responsibility of the investigators to determine the outcome of the investigation based on the preponderance of the evidence. There are two possible outcomes:

Finding of Responsibility – the respondent is found to have violated University policy

Finding of Not Responsible – the respondent individual is found to not have violated University policy, or there is insufficient evidence to determine whether or not the respondent violated University policy

The investigators will share the outcome of the investigation (i.e., whether a violation of University policy has occurred and any proposed recommendations or other corrective actions) with the Deputy Coordinators and the One Process/Title IX Coordinator. Within ten (10) business days of the conclusion of the investigation, the One Process/Title IX Coordinator will issue a letter of finding to the complainant and the respondent explaining the outcome of the investigation, the rationale for the findings, the sanctions or recommendations involved, and the right to appeal. If the University determines that additional time is required to complete the report, a notice of extension shall be issued contemporaneously/ simultaneously to all parties to the extent practicable.

3.1.1. Timeline for Investigation

The investigation and initial resolution of any alleged violation of University policy will be completed as soon as possible upon issuance of a Notice of Investigation. The One Process/Title IX Coordinator is responsible to keep the parties informed about the progress of the investigation.

3.1.2. Investigative Report

The investigators will submit a draft investigative report to the investigative team e.g. Deputy Coordinators and investigators. The team will review the report and request clarification. *A preliminary report is then made available to the complainant and the respondent.* Any statements of fact that need to be addressed in the preliminary report are discussed with the team prior to the final report being issued.

3.1.3. Letters of Finding

The investigative team issues a final report, a letter of finding is issued to all parties. Letters of finding are statements regarding outcome of the investigation and sanctions as appropriate. The letters include summaries of the charges, explanations of the policies involved, and remedial or corrective administrative action; i.e., procedures or practices uncovered during the investigation that should be addressed because they pose a risk to the university. Findings take into account the following situations and circumstances:

- Incidents known to have occurred
- Incidents that are more likely than not to have occurred
- Incidents that are likely not to have occurred

- Incidents that are alleged but could not be substantiated
- False or malicious allegations

3.1.4. Sanctioning

If there is a finding of responsibility, the investigators will make recommendations regarding sanctions and other corrective action to the One Process/Title IX Coordinator and the assigned Deputy Coordinator(s). In making the final determination on sanctions and other corrective actions, a history of the respondent's conduct/policy violations may be considered. The range of potential sanctions or corrective actions that may be imposed against a student, faculty or staff person includes but is not limited to: written or verbal apology, discrimination or harassment education, verbal or written warning, probation, suspension, termination, or dismissal from the University. Employees are advised to consult any relevant handbooks for additional information regarding disciplinary action. Guests and other third parties who are found to have violated this policy are subject to corrective action as deemed appropriate by the University, which may include removal from the University and termination of any applicable contractual or other arrangements.

If the complainant and the respondent both accept the finding of responsibility and proposed sanctions or other corrective action, the violation is referred to the Deputy Coordinator for the implementation of the sanctions or other corrective actions. If the complainant or the respondent do not accept a finding, a request for appeal must be made to the One Process/Title IX Coordinator in writing (letter, email, etc.) within fourteen (14) business days of the letter of finding. The appeal will be reviewed and approved if significant errors in procedure are identified, if the sanction is inappropriate, given the offense, or if new information is provided that could change the outcome of the investigation.

3.2. Stage 3: Review Board

The Review Board will be comprised of a minimum of three (3) trained investigators from the community who were not involved in the investigation described above in Stage 2. The Review Board will evaluate the existing evidence and the investigators' recommendations (from Stage 2). Upon review of the evidence, the Review Board will determine by majority vote whether to conduct a hearing in the case. During the hearing, the investigators (from Stage 2) will present their findings to the Board. The Board may call the complainant, the respondent, and any or all witnesses or other persons relevant to the investigation. The Review Board shall determine all matters of procedure, evidence, relevance and admissibility it deems helpful and fair in the total decision process.

The Review Board will share the outcome of the hearing (i.e., whether a violation of University policy has occurred and any proposed sanctions or other corrective actions) in writing with the complainant and the respondent within seven (7) business days of the conclusion of the hearing unless the University determines that additional time is required. This notice shall be issued contemporaneously/ simultaneously to all parties.

3.3. Stage 4: Right to Further Review

The complainant and the respondent have the right to request further review of the Board's finding and proposed sanctions or other corrective action, if the following conditions apply:

(1) there was a significant procedural error during the investigation or during the initial appeal;

- (2) that there is new information that would substantially change the outcome of the finding, or
- (3) the sanction is disproportionate to the violation of the policy.

This request must be made in writing within fourteen (14) business days of being notified of the outcome and must set forth the grounds upon which the request for further review is based. Further review will be conducted by the President and/or designee(s) who will review the Board's decision.

4.0 GENDER-BASED AND SEXUAL MISCONDUCT POLICY

Dominican University's mission is to "prepare students to pursue truth, to give compassionate service, and to participate in the creation of a more just and humane world." Translating Dominican's twin values of *veritas* and *caritas* into practice requires that each person who studies, teaches, works, or lives within the university community, as well as all those with whom we interact, be respected and cared for as a unique individual within an environment that affirms our shared humanity and pursues the common good.

This requirement includes creating and maintaining an environment that is free of gender-based and sexual misconduct. We are committed to supporting the dignity of every human person and the development of a community marked by truth, love, and justice. Gender-based and sexual misconduct compromise the integrity of human relationships and threaten the security and well-being of all individuals. Not only are gender-based and sexual misconduct unlawful but they also undermine the atmosphere of trust and respect that is essential to creating an authentic, supportive community. The Dominican community expects that interpersonal relationships and interactions will be grounded in mutual respect, open communication, and clear consent. Through these policies, the University strives to eliminate all forms of gender-based and sexual misconduct as well as prevent their recurrence, and address their effects on individuals and our entire community.

- Members of the university community, guests and visitors have the right to be free from all forms of gender based and sexual misconduct. This includes the right to be free from discrimination and harassment based on gender identity and expression.
- Harassment or discrimination against LGBTQ or gender non-conforming students or employees is prohibited under this policy.
- Illinois law prohibits schools from discriminating against students based on sexual orientation, gender identify or expression; Dominican treats transgender students according to their gender identity.

In order to foster a campus environment that is safe space for all, Dominican University has a responsibility to investigate and resolve allegations of gender-based and sexual misconduct. When an allegation of such behavior emerges from the community or from any individual making a complaint, the University will take prompt action to maintain the safety of its community members and will act to protect all parties. If an investigation reveals violations of the gender-based and sexual misconduct policy, the University will impose sanctions and/or other corrective actions to address the violation and prevent its recurrence.

4.0.1. Relationship Between the Bias-Motivated Offensive Conduct Policy and the Title IX Sexual Harassment Policy

Please see the University's Title IX Sexual Harassment Policy. Recent changes to federal regulations have narrowed the scope of conduct covered under Title IX. However, the University continues to prohibit certain conduct now falling outside of Title IX. The vast majority of sexual misconduct cases will fall under the University's Title IX Sexual Harassment Policy.

The following types of cases will follow the Bias-Motivated Offensive Conduct Policy and not the Title IX Sexual Harassment Policy:

- private conduct occurring in private location that is not part of education program/activity;
- conduct occurring outside the geographic boundaries of the United States (i.e., Study Abroad); and
- certain conduct leading to hostile environment sexual harassment (see below).

The Title IX Sexual Harassment Policy covers “unwelcome conduct determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.” The Bias-Motivated Offensive Conduct Policy covers “unwelcome conduct determined by a reasonable person to be so severe, pervasive, **or** objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.”

4.1.0. Definitions and Dimensions of Gender-Based Misconduct

Gender-based misconduct is the umbrella term for a wide range of behaviors that violate community standards and are therefore, inappropriate. We use the term sexual misconduct when actions are gender-based, but manifest themselves in sexual actions.

4.1.1. Gender-Based Discrimination

Gender-Based Discrimination is defined as actions that deprive members of the community of educational or employment access, benefits or opportunities on the basis of gender.

4.1.2. Gender identity

Gender identity is defined as a person’s identification with masculine, feminine, or other gender characteristics. These characteristics need not correspond to the sex assigned to that person at birth. A person’s expression of gender identity may include manners of dress, styles, tones of speech, or physical gestures.

4.1.3. Gender identity discrimination

Gender identity discrimination is defined as denying access to University educational programs, services or employment opportunities, determining opportunities for advancement and pay increases, or creating a hostile institutional environment for someone because of that person’s gender identity.

5.0. DEFINITIONS AND DIMENSIONS OF CONSENT

The expectations of our community regarding sexual misconduct can be summarized as follows:

In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing, and voluntary consent prior to and during sexual activity.

Consent, which is required for any sexual activity, is a voluntary, positive agreement between participants to engage in specific sexual activity. Consent is clear, knowing, voluntary, present and ongoing. Any person can withdraw consent at any time, at any point in a sexual interaction. Once consent has been withdrawn, the other person must stop the sexual activity. If someone stops responding or communicating, they may be withdrawing consent.

The individual initiating sexual activity is required to ensure that consent is present before acting and is present during the sexual activity. The absence of no is not consent; this means there are many ways someone may refuse sexual contact besides simply saying “no” verbally. Just because someone doesn’t say no doesn’t mean they are saying “yes.”

5.0.1. What is Consent?

- Consent is clear. Active consent must be clearly understood in words or actions that reveal agreement to engage in a specific sexual activity.
- Consent is knowing. Consent demonstrates that all individuals understand, are aware of, and agree to the sexual activity.
- Consent is voluntary. Consent must be freely given and not the result of force, threats, intimidation, coercion or fraud.
- Consent is present and ongoing. Consent must exist at the time of the activity. Consent to previous sexual activity does not imply consent to later sexual acts.
- Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Possession, use, distribution or administration to another of any substance that removes a person’s capacity for conscious decision-making about sex; including, but not limited to, Rohypnol, Ketamine, GHB, or Burundanga is a violation of this policy.
- Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy.
- The sexual orientation and/or gender identity of individuals engaging in sexual activity does not affect whether an individual is protected by this policy.
- Involved parties need to understand all of the potential risks in order to consent. These risks may include but are not limited to sexually transmitted infections and unwanted pregnancy. Failure to inform a partner of a known STI or actively lying about one constitutes a breach of informed consent, false statements or deception about the presence or nature of birth control is also a violation of consent.

5.0.2. Communicating consent

While verbal consent is not an absolute requirement for consensual sexual activity, verbal communication prior to engaging in sex helps to clarify consent. Communicating verbally before engaging in sexual activity is imperative. A person who is passive, unresponsive or actively resists is demonstrating defective or withdrawn consent.

5.0.3. Persons who are unable to give consent:

- Persons who are asleep or unconscious
- Persons who are incapacitated due to the influence of drugs, alcohol or medication
- Persons who are unable to communicate consent due to mental or physical conditions.
- Persons who have not reached the age of consent. The age of consent in Illinois is 17 but rises to 18 if the accused is a family member or holds a position of trust, authority or supervision in relation to the victim/survivor.

5.1. Coercion and Force

Consent must happen without force or coercion. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Proving the use of physical force is not necessary to show that sexual activity was coerced or non-consensual. Coercion is the use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Examples of coercion include but are not limited to:

- threatening to "out" someone based on sexual orientation, gender identity, or gender expression
- threatening to harm oneself if the other party does not engage in the sexual activity
- threatening to harm the person who does not engage in the sexual activity
- threatening to tell others private or intimate information one has shared, or information about sexual activities, if one does not engage in certain sexual behaviors

5.2. Definitions and Dimensions of Sexual Misconduct

Title IX of the Education Amendments of 1972 prohibits sex discrimination—which includes sexual violence—in educational programs and activities. All public and private schools, school districts, colleges and universities receiving federal funds must comply with Title IX. Title IX and the Violence Against Women Act (VAWA) prohibits all types of sex discrimination, including sexual assault and other forms of sexual misconduct.

Sexual Misconduct includes, but is not limited to:

- Sexual Harassment
- Sexual Assault which can be divided into two different categories:
 - Non-Consensual Sexual Contact (or attempts to commit same)
 - Non-Consensual Sexual Penetration (or attempts to commit same)
- Sexual Exploitation
- Relationship Violence including Domestic Violence and Dating Violence (Intimate Partner Violence)
 - Physical Assault
- Stalking
- Retaliation

5.2.1. Sexual Harassment

Sexually harassing behaviors differ in type and severity and can range from subtle verbal harassment to unwelcome physical contact. Although there are a wide range of behaviors that fall within the general definition of sexual harassment, such harassment does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents. Key determining factors under this policy involve determining whether the behavior is unwelcome, is gender-based, is sexual in nature, and is perceived as offensive and objectionable by the target and, if known, could be perceived as offensive by others.

Sexual Harassment is unwelcome, sexual, verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational program and/or activities. Sexual harassment is also defined as:

- harassment based on power differentials or involving a quid pro quo; meaning that a person in a position of authority links the receipt of some employment or educational benefit to another person's submission to unwanted sexual advances.
- harassment by the creation of a hostile environment or retaliating against a person for reporting an incident.

Whether conduct constitutes sexual harassment may depend on how the conduct is viewed by the person who is subject to the conduct – the subjective view of the victim is important to determining the offense regardless of the intent of the accused.

A single, isolated incident of sexual harassment alone may create a hostile environment. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

Examples of sexual harassment include: sexual assault; sexual exploitation; an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexually-based request; to condition a benefit on submitting to sexual advances; sexual violence; domestic violence or stalking that is sexual in nature; gender-based bullying that is sexual in nature.

Sexual harassment can take many forms. For example, sexual harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships; harassment can occur in any context.
- May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
- May be committed by or against an individual or may be a result of the actions of an organization or group.
- May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- May occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting.
- May be a one-time event or part of a pattern of behavior.
- May be committed in the presence of others or when the parties are alone.
- May be communication-based involving sexually graphic, threatening or vulgar images, text messages, videos or social media posts.
- May affect the complainant and/or third parties who witness or observe harassment.

5.2.2. Sexual Assault

The term "sexual assault" covers behavior from unwanted touching to non-consensual penetration/rape. These definitions are gender neutral because sexual assault can happen to any gender. Dominican University considers both non-consensual sexual contact and non-consensual sexual penetration as sexual assault.

Non-Consensual Sexual Contact is: any intentional sexual touching, however slight, with any object that is without consent and/or by force.

Sexual Contact includes, but is not limited to: Intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch him- or herself with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

Non-Consensual Sexual Penetration is: any sexual penetration, however slight, with any object that is without consent and/or by force.

Penetration includes: vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

5.2.3. Sexual Exploitation

Sexual Exploitation is an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for purposes including, but not limited to: sexual gratification, financial gain, personal benefit or advantage. The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another individual;
- Non-consensual video or audio-taping of genitals, sexual activity or nudity;
- Engaging in voyeurism without consent from all parties involved;
- Knowingly transmitting an STI or HIV to another;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Possession, use, distribution or administration to another of substances that diminish or remove a person's capacity for conscious decision-making about sex. For example, the use of drugs including Rohypnol, Ketamine, GHB, Burundanga, etc. to incapacitate a person.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

5.2.4. Relationship Violence

Relationship violence occurs when one partner attempts to dominate or exploit another, including but not limited to physical, psychological, financial, and sexual domination. Relationship violence includes multiple dimensions such as domestic violence, dating violence, and intimate partner violence.

Domestic violence occurs when a family member, household member, partner or ex-partner attempts to dominate or exploit another. Domestic violence often refers to violence between spouses, or spousal abuse but can also include cohabitants and non-married intimate partners. Domestic violence occurs in all cultures; people of all races, ethnicities, religions, sexes, and classes can be perpetrators of domestic violence. Domestic violence is perpetrated by both men and women. Child abuse and elder abuse can also be considered domestic violence.

Intimate partner violence is also referred to as dating violence, domestic violence, and relationship violence. Intimate partner violence includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person.

It may involve one act or an ongoing pattern of behavior. Intimate partner violence can encompass a broad range of behavior, including, but not limited to, physical violence, sexual violence, emotional violence, and economic abuse. Intimate partner violence may take the form of threats, assault, property damage, or violence or threat of violence to one's self, one's sexual or romantic partner, friends or acquaintances of a sexual or romantic partner, family members or pets of the sexual or romantic partner.

Intimate partner violence affects individuals of all genders, gender identities, gender expressions, sexual orientations, races, ethnicities, religions, ages, and social and economic backgrounds.

5.2.5. Physical Assault

Physical Assault is purposeful action meant to hurt another person, which includes, but is not limited to, threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person.

Examples include, but are not exclusive to kicking, punching, hitting with or throwing an object, or biting. When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under the Gender-Based and Sexual Misconduct Policy.

5.2.6. Stalking

Stalking, defined as repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family or members of the community. Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority and under circumstances that demonstrate either of the following:

- Placing the person in fear of bodily injury; or
- Causing substantial emotional distress to the person.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion. Examples of stalking include:

- Unwelcome and repeated visual or physical proximity to a person;
- Repeated oral or written threats;
- Extortion of money or valuables;
- Unwelcome/unsolicited written communication, including notes, letters, cards, gifts, emails, instant messages, and social media;
- Unwelcome/unsolicited communications about a person, their family, friends, or co-workers; or
- Sending/posting unwelcome/ unsolicited messages with another username;
- Implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

5.3. Retaliation

Retaliation is any act or attempt to retaliate against or seek retribution from any individual or group of individuals involved in the investigation and/or resolution of an alleged violation of this policy. Retaliation can take many forms, including continued abuse; such as, violence, threats, intimidation or damage to property, harassment on social media. Retaliation is not limited to the complainant or respondent, any individual or group of individuals can engage in retaliation.

5.3.1. Other Misconduct Offenses (Fall under This Policy When Sex or Gender-Based)

- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation,

pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);.

- Bullying means written, verbal or physical conduct that adversely affects the ability of one or more members of the community to participate in or benefit from the school's education programs or activities. Such conduct places an individual in reasonable fear of physical harm. Workplace bullying is repeated mistreatment of one or more persons by one or more individuals. The conduct is abusive because it threatens, humiliates, intimidates, interferes with or sabotages an individual's work. Workplace bullying results in stress-related, physical, emotional, economic or psychological harm. Bullying in violation of the University's Bias-Motivated Offensive Conduct Policy means that the harassing conduct is based on an individual's actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression.

6.0. BIAS-MOTIVATED OFFENSIVE CONDUCT, DISCRIMINATION, AND HATE CRIMES

6.0.1. Introduction

The University is committed to fostering a work and educational environment free of racial harassment, discrimination, and hateful conduct. Our community is called by mission, values, and law to reject all forms of racial and/or ethnic harassment, discrimination, hate, and violence. The University prohibits any member of the community, including faculty, staff, administration, students or visitors to campus whether they are guests, patrons, independent contractors or clients, from discriminating against another person or member of the University community. The policy of non-discrimination aligns with federal and state laws including Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, and the Illinois Human Rights Act.

All members of the university community should be aware that whether any conduct constitutes harassment or bias motivated conduct may depend, in part, on how that conduct is viewed by the person who is subject to the conduct. Any person who initiates or persists in this type of prohibited conduct assumes the risk that the person who is the object of the conduct may view such behavior as unwelcome or offensive. Thus, a person who initiates or persists in this type of conduct could be subject to discipline even if such behavior might not have been intended to be offensive, provided that the conduct meets the definitions of prohibited discrimination, harassment or bias-motivated conduct as defined in these policies.

The University's Bias-Motivated Offensive Conduct Policy covers employees, students, vendors and outside guests. The policy as applied to employees prohibits discrimination based on race, color religion, sex, gender, national origin, disability or gender identity. These policies apply equally to all members of our community regardless of sex, gender, sexual orientation, gender identity, race, ethnicity, nationality, disability or age of any of the individuals involved.

6.0.2. Definitions

Discrimination is any distinction, advantage or detriment to an individual compared to others that is based on an individual's actual or perceived gender, race, color, age, creed, national or ethnic origin, physical or mental disability, religion or sexual orientation. Under this policy, discrimination is defined as conduct that is so severe, persistent or pervasive that it unreasonably

interferes with or limits a person's ability to participate in or benefit from the university's educational program, activities or work obligations.

Discrimination may also involve a supervisor or person in authority making employment decisions related to hiring, firing, transferring, promoting, demoting, changing benefits, compensation or other terms and conditions of employment because of an employees' protected class status.

Racial and/or ethnic harassment, including hate crimes and racial/ethnic discrimination, is conduct directed against any person or group of persons based on race, ethnicity, color or national origin that harms or creates an offensive, demeaning, intimidating or hostile environment for that person or group of persons. Harassment may be oral, written, and/or physical conduct. Such conduct includes but is not limited to objectionable epithets, demeaning depictions or treatment, and threatened or actual abuse or harm.

Hate Crimes are criminal offenses that are motivated in whole or in part by the offender's bias toward the victim's actual or perceived race, religion, disability, sexual orientation, nationality, gender or ethnicity. Hate crimes are not limited to actual crimes but may also be threatened or attempted crimes; and may include assault and battery, vandalism, or other destruction of property, or verbal threats of physical harm. Harassment or intimidation may also be a hate crime when intended to deprive or interfere with a person's civil rights. A person who initiates or persists in this type of conduct could be subject not only to disciplinary proceeding of the university, but also to criminal prosecution.

Racial and/or ethnic discrimination is conduct that serves to limit the social, political, economic, employment or educational opportunities of particular groups or individuals solely on the basis of their race and/or ethnicity.

Racial and/or ethnic harassment is further defined as conduct that:

- Is directed at an identifiable person or persons, and insults or demeans the person or persons to whom the conduct is directed, or abuses a power or authority relationship with that person on the basis of race, color, ethnicity, or national origin by the use of slurs, epithets, hate words, demeaning jokes, derogatory stereotypes, and similar action; and/or
- Is intended to inflict direct injury on that person or persons to whom the conduct is directed; and/or
- Is sufficiently abusive or demeaning so severe or pervasive as to create a hostile environment; and/or
- Occurs in any context or location such that an intent to inflict direct injury may reasonably be inferred; and/or
- Is intended to affect negatively the work or educational environment in a way that makes the treatment of the affected party unequal with respect to his or her proper functioning, opportunities for promotion and development because of his or her race, color, ethnicity, or national origin; and/or
- Is intended to damage or destroy, or damages or destroys private property of any member of the University community or guest because of that person's race or ethnicity with the

purpose of making the educational, work or living environment hostile for the person whose property was damaged or destroyed.

The following examples illustrate but do not exhaust the types of conduct referred to:

- A person would be in violation if causing bodily harm to an individual because of that person's race and/or ethnicity.
- A person would be in violation by making a demeaning remark based on a person's race or ethnicity, or by using racial slurs or "jokes", and those remarks created a hostile work, educational or living environment for a person or persons hearing the remark, or for a person to whom the demeaning remark may have been specifically addressed.
- A person would be in violation if intentionally placing visual or written material demeaning the race and/or ethnicity of an individual in that person's work, study or living area; and such material made the work, educational, or living environment hostile for the person in whose work or study area the material was placed.
- A person would be in violation when that person's conduct resulted in making hostile the work, educational or living environment for a person subject to such conduct.
- A person would be in violation if they misuse grades, evaluations or promotion procedures to adversely affect a person on the basis of race or ethnicity.
- A person would be in violation if intentionally not hiring a person on the basis of race or ethnicity.

6.1.0. Notification of One Process Concern

Following a recommendation from the One Process/Title IX Coordinator or the Intake Panel, the Office of Diversity, Equity and Inclusion will issue a Notice of One Process Concern (NOC) in response to a discrimination complaint that is not scheduled for investigation. The notice summarizes the complaint and offers the respondent the opportunity to respond to the allegations in writing. A Notice of Concern is sent to both parties. An NOC may trigger an investigation if either the complainant or the respondent makes such a request.

7.0. STUDENTS WITH DISABILITIES: REASONABLE ACCOMMODATIONS FOR PEOPLE WITH DISABILITIES

The American with Disabilities Act, as amended and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination based on ability. Dominican University strives to create an environment that is accessible to its entire community and does not discriminate against individuals on the basis of physical or mental disability. Accessibility is not limited to physical spaces but includes the following basic rights:

- access to services, programs, and any events and activities organized by Dominican University
- access to information from Dominican University as readily as others are able to access it
- the expectation of the same level and quality of service from Dominican University that others receive

To ensure equal access, and realizing that equal does not always mean the same, the University is committed to providing reasonable accommodations, including appropriate auxiliary aids and

services, academic adjustments (inside or outside the classroom), and/or modification to the University's policies and procedures, to qualified individuals with disabilities, unless providing such accommodations would result in an undue burden or fundamentally alter the nature of the relevant program or activity.

8.0. COORDINATION WITH LAW ENFORCEMENT

When necessary and appropriate, the University may contact any law enforcement agency that is conducting its own investigation to inform them that a University investigation is also in progress. The One Process/Title IX Coordinator may seek to ascertain the status of the criminal investigation and to ascertain the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

9.0. FILING AND RECORD KEEPING

The One Process/Title IX Coordinator will maintain complaint files, electronic files and complaint log. Reports will be maintained in a locked filed cabinet for a period not to exceed three years. Files will then be stored in a secure location. Reports will be issued to One Process stakeholders and President's Cabinet. Summary reports will be filed to comply with state, local and federal laws.

10.0. PERIODIC REVIEW OF ONE PROCESS POLICY

To ensure that enforcement of university standards governing discrimination and sexual misconduct are fair, reasonable, available to all members of the community and in compliance with relevant federal, state, and local laws, these policies will be reviewed annually by the One Process/Title IX Coordinator and every three years by the One Process/Title IX Coordinator, the Climate, Equity Inclusion Committee, and the Staff Committee on Inclusion. Changes to the policy must be reviewed and approved by the President's Cabinet.

APPENDIX A: RIGHTS OF COMPLAINANTS AND RESPONDENTS

One Process seeks to balance the rights, needs and privacy of those who may have been victimized as well as those who have been accused. The University shall provide any individual suspected or accused of violating this policy with the opportunity to review a written explanation of the suspected or alleged violations of University policy.

Complainants and respondents have rights, including:

- The opportunity to speak on their own behalf.
- The opportunity to request interim measures which may include but are not limited to: removing a student or employee from campus; modifying course schedules; changing housing assignments; providing medical, mental health or academic support services; issuing a "no contact" or an "appropriate" contact order; and notifying area Police, when requested by the complainant.
- To the extent possible, any such interim steps will be taken in a manner that minimizes the burden on the complainant and respondent.

- The right to be informed about and request services available on campus and in the community.
- The right to request information about the case and the right to be kept informed about the status of an on-going process.
- In an investigation of sexual misconduct, the prior sexual history of the complainant or the respondent will not be relevant. However, the sexual history between the complainant and respondent is relevant and within the scope of the investigation.
- The opportunity to identify witnesses who can provide information about the alleged conduct at issue.
- The opportunity to submit other information on their behalf.
- The opportunity to have a trained investigation advocate from the Dominican University community (faculty/staff/student) or other advisor present for the investigation and/or resolution process. The investigation advocate from the Dominican University community will be trained in investigation protocols, advise the complainant or respondent on the proceedings, and communicate expectations about the process of investigation.
- The opportunity to review documentation offered by the other party in support of the other party's position (to the greatest extent possible and consistent with the Family Educational Rights and Privacy Act (FERPA) or other applicable law).
- The right to be informed of the outcome of the investigation (to the greatest extent possible and consistent with FERPA or other applicable law).
- The opportunity to appeal the outcome of the investigation.

APPENDIX B: INTERVIEW PROTOCOL FOR THE INVESTIGATION

Interview of Complainant

- Describe the purpose of the investigation and interview.
- Review University policy(s).
- Explain the process for the investigation.
- Do not promise confidentiality.
- Ask the complainant for their account of the incident. Ask questions for clarification and further detail as necessary. In cases where complainant is unavailable for an interview. The investigators can ask for a written statement, signed and dated.
- Ask for any witnesses from the complainant.
- Ask the complainant of the desired outcome, but do not promise any specific outcome.
- Request that the complainant refrain from sharing details of the interview with others.
- Inform the complainant that they will be kept up to date on the progress of the investigation.
- Thank the complainant for coming forward.
- The written summary of their interview should be shared with the complainant for verification and editing.

Interview of Respondent

- Describe the purpose of the investigation and interview.
- Review University policy(s).
- Describe the alleged behaviors and by whom.
- Ask if the described behaviors happened as a direct question. Provide a copy of the complaint to the respondent for review, redacting any names/identifying information that are not necessary, or from whom written permission to share information has not been obtained.
- Ask the respondent for any additional witnesses.
- Review the Retaliation and Privacy Policies.
- The written summary of their interview should be shared with the respondent for verification and editing.

Interview of Witnesses

- Ask the witnesses whether they had been contacted by the complainant or respondent, and what, if anything, was discussed.
- Only share with witnesses the details of the complaint needed in order to provide information.
- Ask the witnesses to share information related to the report.
- Ask the witnesses for any additional witnesses.
- If a witness cannot be interviewed; allow the witnesses to provide answers to written questions; have the witness sign and date their statement.
- Review the Retaliation and Privacy Policies.

APPENDIX C: ONE PROCESS STAKEHOLDERS

Confidential Advisor

Kathleen Janosky

Confidential Resources

Mark Cabonara

Michelle VanNatta

Timothy Woods

Deputy Coordinators

Roberta McMahon

Meagan Mitchell

Norah Collins Pienta

Carol Seley

Investigators

Sheila Bauer-Gatsos

Sr. Jane Boland

Kate Costigan

Dan Domin
Dennis Kirchen

Professional Counselors

Jeanna Carlson
Michael Purcell
Joyce Mojica
Elizabeth Ritzman

Investigation Advocates

Gill Cook
Keli Wojciechowsk
Jill Bambenek

Mediators

Tracy Caldwell
Monica Halloran
Debbie Morsovillo

Intake Panel

Monica Halloran
Debbie Morsovillo

APPENDIX D. INTAKE PROCEDURAL GUIDANCE

Procedural Guidance

Resolution of complaints through the Intake process. The One Process/Title IX Coordinator convenes or notifies the Intake panel. A satisfactory informal resolution that does not involve a full investigation should, to the extent possible, adequately address the needs of the complainant, the respondent, and the University. At any point in the proceedings, the University or the parties involved may terminate any informal proceeding. The University reserves the right to act as the complainant and initiate a formal complaint.

Notice of the Complaint. Both parties will be notified regarding the complaint. The notice will summarize the allegations and provide an opportunity for the respondent to issue a response. A second complaint provides notice to both parties, the Department chair/program director/Dean as determined by the Intake Panel according to the facts of the case.

Protocol

Under One Process, the following protocol is considered to determine if the allegations are relevant to the policy. These questions should be asked in conversation with the Complainant. The purpose is to determine whether the behavior experienced by the Complainant violates the One Process.

The Intake panel will use the following questions to determine if a full investigation is warranted.

Title VI

- What is the reason for your claim of discrimination?
- What acts occurred that you consider discriminatory?
- Why do you believe the treatment you received was discriminatory?
- Can you describe someone who was in the same or similar situation as you and how they were treated?
- What material harm did you suffer as the result of the conduct?
- Have you sought assistance with this situation from a supervisor, faculty, staff, security, etc.?
- What is your idea of a just resolution of the complaint?

Title VII

- What is the reason for your claim of discrimination?; i.e., age, race, color, ethnicity, disability, religion, national origin, retaliation, sex, sexual orientation, gender, pregnancy,
- What happened that you believe was discriminatory? Why?
- What reasons were given to you for the acts that you consider discriminatory, By whom?
- Are there any witnesses to the alleged discriminatory incidents?
- Describe who was in the same of a similar situation as you and how they were treated?
- Describe a situation where a person in the same or similar situation as you was treated better than you?
- Describe a situation where a person in the same or similar situation as you was treated worse than you?

ADA

- What does your disability prevent or limit you from doing?
- Do you use medications, medical equipment or anything else to lessen or eliminate the symptoms of your disability; if so, what do you use?
- What is the disability that you believe is the reason for the adverse action taken against you?
- Did you ask your supervisor for any changes or assistance to do your job because of your disability?
- Are there any witnesses to the alleged discriminatory incidents?

APPENDIX E. RESOURCES

DU Campus Security

(708) 524-5999 (non emergency)

911 (emergency)

Pillars 24-hour hotline

Domestic Violence Hotline (708) 485-5354

Sexual Violence Hotline: (708) 482-9600

DU On-Campus Confidential Advisors

DU Wellness Center

Students Only: Professional Counselors and health care professionals in the [Wellness Center](#) can offer services confidentially.

Employees Only: For eligible employees, *EmployeeConnect Services* offers confidential guidance and resources for you or an immediate household family member at metlifeeap.lifeworks.com or (888) 319-7819.

Confidential Resources

Confidential Resources are available to talk to any member of the Dominican community. Confidential Resources provide support for individuals who are unsure about whether to report prohibited conduct or are seeking information about the process without making a report to the University. Confidential Resources are listed on our website.

Title IX Deputy Coordinators

Norah Collins Pienta, Dean of Students

Roberta McMahon, Director of Human Resources

Meagan Mitchell, Director of Student Life/Assistant Dean of Students

Carol Seley, Director of Risk Management/Interim Director of Campus Safety and Security